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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,645	12/22/2000	Wolfgang Milewski	DT-3815	1540

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EXAMINER

NORDMEYER, PATRICIA L

ART UNIT	PAPER NUMBER
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1772

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DATE MAILED: 05/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,645

Applicant(s)

MILEWSKI ET AL.

Examiner

Patricia L. Nordmeyer

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 5, 10, 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “of the second projections on the cover plane” and in claim 1 is unclear, which renders the claim vague and indefinite. It is unclear from the figures and the claim language the existence of a second projection on the upper side of the mat.

The phrase “on the underside within the projections of the first projections” in claim 1 is unclear, which renders the claim vague and indefinite. It is unclear from the claim language if the first projections are on the upper side or underside of the mat. For the purpose of examination, the Examiner assumes that word “first” is suppose to be replaced by “second”.

The phrase “cover plane” located in claims 1 and 5 is unclear, which render the claims vague and indefinite. It is unclear from the claim language what is meant by “cover plane”, if it is another name for one of the surfaces (upper or underside) or if it is referring to a different surface.

The phrase "the height of the first projections is less than 1/3 of their largest measurement on the covering plane and the height of the second and/or third projections is in the range of between 1/5 and 1/2 of its size measurement on the covering plane" in claim 10 is unclear which renders the claim vague and indefinite. It is unclear from the claim language what the height measurement is being compared since "largest measurement" is vague and could be talking about the height of the projection.

The word "rebound" in claims 11 and 12 is unclear, which render the claims vague and indefinite. It is unclear from the claim language and the specification what is meant by "rebound", if it is has the same meaning has perforation or if is referring to another feature of the mat.

Clarification/correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 4, 6 - 8 and 10 - 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (USPN 2,810,672) in view of Stockl (USPN 3,699,926).

Taylor discloses a floor mat made of two pieces, which are separate from each other

(Column 1, lines 23 – 25). The top mat is made from a layer of rubber, which is deformable (Column 2, lines 30 – 34), with lugs or projections (Column 1, lines 29 – 35) of two different sizes (Figure 3, #13 and 15 and Column 2, line 71 to Column 3, line 5) on the underside of first, or top, cover, where one lug, second projection, would be of a length to rest on a surface at all times (Figure 3, #13) while the other, the third projection, would only touch the surface when weight was applied to the mat (Figure 3, #15). The larger of the projections, second projections, has a shape of a square prism (Figure 3, #13) where the diameter of the projection approximates the space between the projections (Figure 3, 13) while the third projection has a spherical segment shape (Figure 3, #15) where the diameter of the projections is less than three-fourths of the distance between them (Figure 3, #15). The heights of the projections are between $1/5$ and $1/2$ of the diameter (Figure 3, #13 and #15). Apertures of a circular shape (Figure 1, #9) are present in between the lugs in the mat to allow water to drain from the surface of mat (Column 2, lines 63 – 65). However, Taylor fails to disclose an arrangement of first projections on the upper side that do not overlap the second projections on the cover plane and the first projections essentially have the shape of a spherical segment.

Stockl teaches projections on two sides where the projections are cylindrical, polygonal, oblong or hemispherically shaped (Column 2, lines 57 – 61 and Column 4, claim 2) with heights less than $1/3$ of their diameter (Figure 2, #3) and offset from each other and do not overlap (Figure 2 and 3, #2 and 3) with grid sizes that correspond with one another (Figure 3, #2 and 3) in a rubber floor mat (Column 2, lines 61 – 63) for the purpose of making a mat that is soft and flexible, supports heavy loads, removes liquids underneath the surface and gives traction to animals and attendants while walking on it.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the spherically projections on the top side of the rubber mat in grid sizes that corresponded to one another in Taylor in order to make a mat that is soft and flexible, supports heavy loads, removes liquids underneath the surface and gives traction to animals and attendants while walking on it as taught by Stockl.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (USPN 2,810,672) in view of Stockl (USPN 3,699,926) as applied to claims 1 – 4, 6 - 8 and 10 - 12 above, and further in view of Myrvold (USPN 5,619,832).

Taylor, as modified with Stockl, discloses the claimed rubber floor mat with projections above except for the second projections having the form of a square prism or frustum with rounded edges and transitional areas to the cover plane and the third projections has the form of spherical segment.

Myrvold teaches protrusions on the bottom surface where the edges are rounded and a transitional period exists between the projection and the bottom surface (Figure 9, #202A, Figure 11, #202A and Column 6, lines 50 – 57) in a mat for covering the floor for the purpose of protection against dampness from a concrete floor.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the protrusions with rounded edges and transitional period in the modified Taylor in order to protect against dampness from a concrete floor as taught by Myrvold.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (USPN 2,810,672) in view of Stockl (USPN 3,699,926) as applied to claims 1 – 4, 6 - 8 and 10 - 12 above, and further in view of Dungl (USPN 4,329,981).

Taylor, as modified with Stockl, discloses the claimed rubber floor mat with projections above except for the first projections being formed by two superimposed basic geometric forms, in particular of a larger spherical segment and a smaller spherical segment mounted on it.

Dungl teaches projections of a spherical shape with smaller spherical segments attached to it (Figure 3) on the top surface of a foot massage mat formed from rubber (Column 1, lines 5 – 7) for the purpose of massaging the foot of the user as they walk over the projections on the surface.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the spherical segments with the smaller spherical segments attached to it in the modified Taylor in order to massage the foot of the user as they walk over the projections on the surface as taught by Dungl.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 348,782 to Sawyer, U.S. Patent No. 2,052,605 to Clark et al. and U.S. Patent No. 2,326, 963 to Morton to show the state of the art.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (703) 306-5480. The examiner can normally be reached on Monday thru Friday from 8:15 a.m. until 4:45 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Patricia L. Nordmeyer
Examiner
Art Unit 1772

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pln

April 23, 2002

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

5/1/02